

1 **UNITED STATES DISTRICT COURT**
2 **NORTHERN DISTRICT OF CALIFORNIA**
3 **SAN FRANCISCO DIVISION**

4 TYLER HARDY and DANNY
5 ROCHEFORT, Individually and On
6 Behalf of All Others Similarly Situated,

7 Plaintiffs,

8 v.

9 EMBARK TECHNOLOGY, INC.
10 f/k/a NORTHERN GENESIS
11 ACQUISITION CORP. II, IAN
12 ROBERTSON, KEN MANGET,
13 CHRISTOPHER JARRATT, PAUL
14 DALGLISH, ROBERT SCHAEFER,
15 BRAD SPARKES, ALEX
16 RODRIGUES, and RICHARD
17 HAWWA,

18 Defendants.

No: 3:22-cv-02090-JSC

Hon. Jacqueline Scott Corley

19 **DECLARATION OF JOSEPHINE BRAVATA CONCERNING:**
20 **(A) MAILING OF THE LONG NOTICE AND CLAIM FORM;**
21 **(B) PUBLICATION OF THE SUMMARY NOTICE; AND (C) REPORT ON**
22 **REQUESTS FOR EXCLUSION AND OBJECTIONS**

23 I, Josephine Bravata, declare as follows:

24 1. I am the Quality Assurance Manager of Strategic Claims Services
25 (“SCS”), a nationally recognized class action administration firm. I have over
26 twenty years of experience specializing in the administration of class action cases.
27 SCS was established in April 1999 and has administered over five hundred twenty-
28 five (525) class action cases since its inception. I have personal knowledge of the

1 facts set forth herein, and if called on to do so, I could and would testify competently
2 thereto.

3
4 **MAILING OF THE LONG NOTICE AND CLAIM FORM**

5 2. Pursuant to the Court’s Order Re: Plaintiffs’ Motion for Preliminary
6 Approval, dated September 26, 2023 (Dkt. No. 91, the “Preliminary Approval
7 Order”), SCS was appointed and approved as the Settlement Administrator to
8 supervise and administer the notice procedure and processing of claims in
9 connection with the proposed Settlement in the above-captioned action (the
10 “Action”). All capitalized terms used herein that are not otherwise defined have the
11 meanings ascribed to them in the Amended Stipulation and Agreement of
12 Settlement, dated August 30, 2023 (Dkt. No. 82-1, the “Amended Stipulation”).
13
14
15

16 3. I submit this declaration in order to provide the Court and the Parties
17 information regarding the notifications to potential Settlement Class Members, as
18 well as updates concerning other aspects of the Settlement administration process.
19
20

21 4. To provide notice to those persons and entities that (i) purchased or
22 otherwise acquired common stock of Embark Technologies, Inc. (“Embark”) f/k/a
23 Northern Genesis Acquisition Corp. II (“Northern Genesis”) pursuant or traceable
24 to the July 2, 2021 registration statement, including all amendments thereto, issued
25 in connection with the Business Combination between Northern Genesis and the
26 privately held Embark Trucks Inc. (“Legacy Embark”) completed on or about
27
28

1 November 10, 2021 (the “Business Combination”); and/or (ii) beneficially owned
2 and/or held Northern Genesis common stock as of October 6, 2021, the record date,
3 and were eligible to vote at Northern Genesis’ November 9, 2021 special meeting
4 with respect to the Business Combination, pursuant to the Preliminary Approval
5 Order, SCS printed and mailed the Notice of Pendency and Proposed Settlement of
6 Class Action (“Notice”) and Proof of Claim and Release Form (“Claim Form”)
7 (collectively, the “Notice Packet”) to potential members of the Settlement Class. A
8 true and correct copy of the Notice Packet is attached as **Exhibit A**.
9
10
11

12 5. SCS sent the Depository Trust Company (“DTC”) the Notice Packet
13 for the DTC to publish on its Legal Notice System (“LENS”) on October 5, 2023.
14 LENS provides DTC participants the ability to search and download legal notices as
15 well as receive e-mail alerts based on particular notices or particular CUSIPs once a
16 legal notice is posted.
17
18

19 6. As in most class actions of this nature, the large majority of potential
20 Settlement Class Members are expected to be beneficial purchasers/owners whose
21 securities are held in “street name” — *i.e.*, the securities are purchased by brokerage
22 firms, banks, institutions and other third-party nominees in the name of the nominee,
23 on behalf of the beneficial purchasers/owners. The names and addresses of these
24 beneficial purchasers/owners are known only to the nominees. SCS maintains a
25 proprietary master list consisting of 839 banks and brokerage companies (“Nominee
26
27
28

Account Holders”), as well as 1,341 mutual funds, insurance companies, pension funds, and money managers (“Institutional Groups”). On October 5, 2023, SCS caused a letter to be mailed or e-mailed to the 2,180 nominees contained in the SCS master mailing list. The letter notified nominees of the Settlement and requested that they, within 7 calendar days from the date of the letter, either send the Notice Packet or email the link to the Notice Packet on the settlement website to their customers who may be beneficial purchasers/owners within 7 calendar days from receipt of the Notice Packet copies or link, or provide SCS with a list of the names, mailing addresses, and email addresses of such beneficial purchasers/owners so that SCS could promptly either mail the Notice Packet or email the link to the Notice Packet on the settlement website directly to them. A copy of the letter sent to these nominees is attached as **Exhibit B**.

7. SCS mailed, by first class mail, postage prepaid, the Notice Packet to 239 individuals and organizations identified in the transfer records that were provided by the transfer agent. These records reflect persons and entities that purchased Embark and/or held Northern Genesis common stock for their own account, or for the account(s) of their clients, during the Business Combination. The transfer record mailing was completed on October 6, 2023. SCS also received two additional names and addresses of potential Settlement Class Members from Lead

1 Counsel who were mailed a Notice Packet on October 6, 2023. To date, 241 Notice
2 Packets have been mailed to potential Settlement Class Members.

3
4 **PUBLICATION OF THE SUMMARY NOTICE**

5 8. Pursuant to the Preliminary Approval Order, the Summary Notice of
6 Proposed Class Action Settlement (“Summary Notice”) was published once in
7 *Investor’s Business Daily* and transmitted once over *PR Newswire* on October 16,
8 2023, as shown in the confirmations of publication attached hereto as **Exhibit C**.

9
10
11 **TOLL-FREE PHONE LINE**

12 9. SCS maintains a toll-free telephone number (1-866-274-4004) for
13 Settlement Class Members to call and obtain information about the Settlement. SCS
14 has promptly responded to each telephone inquiry and will continue to address
15 Settlement Class Member inquiries.

16
17
18 **SETTLEMENT WEBSITE**

19 10. On October 3, 2023, SCS established the settlement webpage on its
20 website at www.strategicclaims.net/embark/. The website is accessible 24 hours a
21 day, 7 days a week. The webpage currently contains the case status; the case-related
22 deadlines; an online claim filing link; and important documents such as the Notice
23 Packet, the Preliminary Approval Order, and the Amended Stipulation. To date, the
24 settlement website has received 474 pageviews from 220 unique users.
25
26
27
28

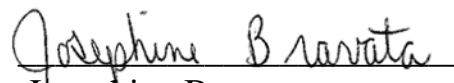
REPORT ON EXCLUSIONS AND OBJECTIONS

11. The Notice, Summary Notice, and the settlement website informed potential Settlement Class Members that written requests for exclusion are to be mailed or delivered to SCS such that they are received no later than December 22, 2023. SCS has been monitoring all mail delivered for this case. As of the date of this declaration, SCS has not received any requests for exclusion.

12. According to the Notice, Summary Notice, and the settlement website, Settlement Class Members seeking to object to the proposed Settlement, any part of the Settlement, the proposed Plan of Allocation, the request for attorneys' fees and expenses, and/or an award of reasonable costs and expenses for the two Class Representatives must be submitted to the Court, no later than December 22, 2023. As of the date of this declaration, SCS has received no objections, and SCS has not been notified that an objection was filed.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 26th day of October 2023, in Media, Pennsylvania.


Josephine Bravata